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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,398	03/17/2004	Katsuhiko Ito	HGM-139-A	3704

21828 7590 09/27/2005

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EXAMINER

KERSHTEYN, IGOR

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,398

Applicant(s)

ITO ET AL.

Examiner

Igor Kershteyn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6, 7 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/17/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

Claims 6 and 9 are objected to because of the following informalities:

Claim 6 is objected to because in line 5 "a motor pivot member" should be --the motor pivot member--.

Claim 9 recites the limitation "said spacer" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6, 7, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashi et al. (4,916,901).

In figures 1, 2, and 14, Hayashi et al. teaches a hydraulic continuously variable transmission T, comprising: a hollow transmission housing 4; a motor casing 24 disposed within said transmission housing T for supporting a motor pivot member 23; a motor pivot member 23 supported by said motor casing 24; a swash plate plunger pump P disposed within said housing T and comprising a pump swash plate 12 and a pump

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cylinder 7; an input gear 2 operatively connected to said swash plate plunger pump P and having a rotational center axis; a swash plate plunger motor M rotatably supported on said motor pivot member 23 and comprising a motor swash plate 22 and a motor cylinder 17; and an output shaft 31 extending through and supporting said pump cylinder 7 and said motor cylinder 17, said output shaft 31 being rotatably supported in said housing T through a plurality of rotatable bearings 40,48; a swash plate adjustment mechanism C for use in pivotally adjusting said motor swash plate 22; and a servo motor 80 operatively attached to said swash plate adjustment mechanism C for adjusting a pivot angle of said motor swash plate 22, said servo motor 80 having an output shaft (not numbered) disposed in parallel to the rotational center axis of said input gear 2.

Allowable Subject Matter

Claims 1-5 are allowed.

Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consist of two patents.

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Hayashi et al. (4,781,022) is cited to show a hydraulic CVT having an input gear and a servo motor but fails to teach an output shaft of the servo motor disposed in parallel to the rotational axis of the input gear.

Hayashi et al. (5,575,151) is cited to show a hydraulic CVT having an input gear and a servo motor but fails to teach the servo motor partially overlaps the input gear in side view.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kershteyn whose telephone number is **(571)272-4817**. The examiner can be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on **(571)272-4820**. The fax number is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0861.

IK
September 22, 2005

A handwritten signature in black ink, appearing to read 'Igor Kershteyn', is written over a horizontal line.

**Igor Kershteyn
Patent examiner.
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